

**Before the
Federal Communications Commission
Washington, D.C.**

In the Matter of)	
)	
Telecommunications Carriers Eligible to)	
Receive Universal Service Support)	WC Docket No. 09-197
)	
Time Warner Cable, Inc.)	
Petition for Forbearance)	

COMMENTS OF THE TELECOMMUNICATIONS ASSOCIATION OF MAINE

The Telecommunications Association of Maine (TAM)¹ hereby offers these comments in opposition to the Petition for Forbearance filed by Time Warner Cable, Inc. (“TWC”) on November 13, 2012, in the above captioned proceeding. Unlike the wireless providers for whom the Commission has granted forbearance in the past, TWC is a fixed voice provider with a clear and well defined footprint that often overlaps rural exchanges. In addition, in many circumstances TWC has franchise agreements to serve entire communities but has chosen not to build out to all customers within those communities. By denying TWC the requested forbearance, the Commission will promote the actual goals of universal service by encouraging TWC to expand its service to currently unserved individuals, thus increasing competition and additional telecommunications opportunities for more Americans.

¹ TAM’s members are FairPoint Communications of Northern New England, Northland Telephone Company, China Telephone Company, Maine Telephone Company, Standish Telephone Company, Sidney Telephone Company, Cobbosseecontee Telephone Company, Community Service Telephone Company, Hampden Telephone Company, Hartland & St. Albans Telephone Company, Somerset Telephone Company, The Islands Telephone Company, Warren Telephone Company, Oxford Telephone Company, Oxford West Telephone Company, Unitel Inc., Mid-Maine Telecom, Saco River Telegraph & Telephone Company, The Pine Tree Telephone & Telegraph Company, Lincolnville Networks and Tidewater Telecom.

In making its request for forbearance, TWC cites *NTCH, Inc. and Cricket Communications, Inc.*, Order, 26 FCC Rcd 13723, at ¶ 10 (2011) (“Cricket Order”) as a basis for its claim. However, the *Cricket Order*, as with the cases cited within the *Cricket Order*, is a request by a wireless provider. Wireless service areas are fundamentally different from wireline, be it ILEC wireline or fixed VoIP wireline, service areas. Spectrum simply does not follow any terrestrial governmental boundary lines. However, with cable telephony providers such as TWC, service areas have been developed on an entire municipal basis through franchise agreements. This tracks much more closely with traditional ILEC exchanges. Indeed, when one looks at the entirety of TWC’s service area, rather than focusing on one franchise location at a time, the combined municipalities in which the cable telephony provider has franchise authority will usually overlap the underlying rural exchanges completely. TWC operates as a single cohesive company across all of its franchises, and when determining TWC’s actual service area the Commission should define TWC’s service area as the aggregate of all of TWC’s franchise areas. Accordingly, there is no reason to grant forbearance for those areas in which TWC’s service area encompasses the entirety of a rural exchange.

There may be some limited number of situations where TWC’s franchise areas are not sufficient to cover the entirety of a rural exchange. In those specific circumstances, there may be a basis for requesting forbearance. However, rather than identifying specific exchanges, TWC has simply requested a blanket forbearance for all of its locations. The effect of granting such a blanket forbearance would be to remove the incentive from TWC to actually expand its service to all customers within its franchise areas. This enshrining of the existing disincentive would virtually guarantee that new

services would not be extended by TWC to currently unserved customers within TWC's franchise area. This result is clearly the polar opposite of the goal of Universal Service to reach all Americans with comparable services at comparable rates. Moreover, given that there has been no showing by TWC of the cost of providing voice service by TWC, there is no way to determine whether the full lifeline credit given to customers, especially those customers who opt for multiple services from TWC, would offset costs or would simply be a pure windfall for TWC both in terms of an immediate subsidy and in terms of permitting greater marketing opportunities for TWC's non-voice services. It would not be in the public interest to allow TWC to get a windfall of federal money while TWC continues to refuse to build out to all customers within their franchise area.

Contrary to TWC's position, granting the requested forbearance is quite likely to result in cream skimming. If forbearance is granted, TWC will be able to target customers in the lower cost central portions of rural communities and switch them away from the services of the underlying carriers, while leaving only the higher cost remote customers as being the responsibility for the underlying ILEC to serve. It must be made quite clear that this is not simply about voice service. Lifeline customers continue to subscribe to additional services from the underlying carrier, including vertical services, broadband service, and in many cases video service through partnerships with a satellite provider. Unlike with wireless providers, such as those contemplated in the *Cricket Order*, the existence of competing triple-play offerings made by incumbent wireline carriers gives TWC a very real opportunity, and incentive, to cream skim the highest grossing and lowest cost customers while continuing to refuse to build out to the higher

cost portions of their existing franchise areas. The best way to mitigate this harm is by denying the blanket forbearance request.

Accordingly, TAM urges the Commission to reject TWC's blanket request for forbearance and require TWC to build out to all customers within its franchise area if it is to receive any federal dollars. This is the only way to promote Universal Service. Anything less is simply a windfall for TWC at the expense of every other customer in the Nation who will be contributing to the Federal Universal Service Fund. If there are specific areas where TWC can show with sufficiently detailed information that there is a specific rural exchange that is not completely covered by areas in which TWC has franchise authority, then TWC should of course be free to resubmit a request for forbearance for that specific location. However, at this time, there is absolutely no basis for approving the blanket forbearance request for TWC.

Sincerely,

A handwritten signature in blue ink, appearing to read "B. Sanborn", with a long horizontal flourish extending to the right.

Benjamin M. Sanborn, Esq.
Telecommunications Association of Maine

The Law Office of Benjamin M. Sanborn, P.A.
P.O. Box 5347
Augusta, ME 04330
TEL: (207) 314-2609
FAX: (866) 436-6616